

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:17-cv-00458-RJC-DSC

SAFETY NATIONAL CASUALTY
CORPORATION,

Plaintiff,

vs.

GARLOCK SEALING
TECHNOLOGIES LLC, et. al,

Defendants,

vs.

SAFETY NATIONAL CASUALTY
CORPORATION,

Counterclaim Defendant,

and

STARR INDEMNITY & LIABILITY
COMPANY,

Additional Party
Defendant.

ORDER

THIS MATTER comes before the Court on the parties' Certification and Report of Fed. R. Civ. P. 26(F) Conference and Discovery Plan. (Doc. No. 48).

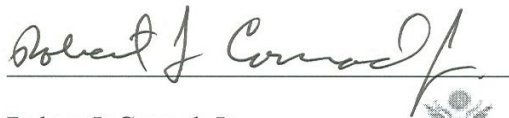
Safety National Casualty Corporation (Safety) takes the position that this Court is divested of jurisdiction while its appeal of arbitrability is pending, requiring

a stay. (Id. at 2). Starr Indemnity & Liability Company (Starr) submits that further action should be deferred until the arbitration issue is resolved to conserve judicial and party resources and avoid inconsistent rulings. (Id. at 3). Garlock Sealing Technologies, LLC and other defendants (collectively, Garlock) propose a discovery plan.

In Levin v. Alms and Assocs., Inc., 634 F.3d 260, 264-65 (4th Cir. 2011), the United States Court of Appeals for the Fourth Circuit joined the majority view that an arbitrability appeal divests the district court of jurisdiction over “the continuation of any proceedings relating to the claims at issue,” including discovery, unless the district or appellate court declares the appeal is frivolous. Here, the Court finds that Safety’s appeal pursuant to 9 U.S.C. § 16(a)(1)(A) & (B) is non-frivolous; therefore, further proceedings in this matter will be **STAYED** pending resolution of the appeal.

SO ORDERED.

Signed: October 29, 2018

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

